IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6236 of 2007()

CC.29/2007 of J.M.F.C.,WADAKKANCHERRY
CRIME NO.222/03 OF WADAKKANCHERRY POLICE STATION

.....

: PETITIONER/ACUSED

YUSUF,
S/O.ABDULRAHIMAN, PAMBATHUVALAPPIL HOUSE,
KANJIRAKODE VILLAGE, THALAPPILLY TALUK.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6236 of 2007

Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offences punishable under SectionS 341 and 323 r/w 149 I.P.C. All the other accused who have already faced trial have been found not guilty and acquitted. The case against the petitioner has been split up and the same is now pending before the learned Magistrate. Coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is innocent. His absence earlier was not wilful or deliberate. He is willing to appear before the learned Magistrate and seek regular bail. It is further submitted that the disputes between the petitioner and the defacto complainant have been settled and all substantive offences are compoundable also. It is therefore prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate.

I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. Needless to say that the petitioner shall be at liberty to apprise the learned Magistrate of the alleged settlement/composition of the dispute by the defacto complainant and request the learned Magistrate to reckon the compoundable offences as compounded. The petitioner shall also be at liberty to urge the contention that he is not now liable to be proceeded against under Sections 143 and 147 I.P.C in the light of the acquittal of the co-accused on those charges.

(R.BASANT, JUDGE)

rtr/-